

BAKER & HOSTETLER LLP

Thomas A. Canova (TC 7270)

45 Rockefeller Plaza

New York, New York 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

Deborah A. Wilcox (Ohio Bar No. 0038770)

3200 National City Center

1900 East 9th Street

Cleveland, OH 44114

Telephone: (216) 621-0200

Facsimile: (216) 696-0740

Attorneys for Plaintiff
pediped Infant Footwear LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PEDIPED INFANT FOOTWEAR LLC, :
v. :
KUDOS LEATHERGOODS LTD d/b/a :
JACK AND LILY and ROBERT THOMAS :
BUELL, Individually, :
Defendants. :
:

Plaintiff, : Case No. 08-CIV-3572 (LTS)

**PLAINTIFF'S APPLICATION FOR
ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. P. 65(a), Plaintiff pediped Infant Footwear LLC ("pediped") hereby applies for an Order to Show Cause why a preliminary injunction should not issue.

Pediped is entitled to a preliminary injunction preventing Defendants Kudos Leathergoods Ltd d/b/a Jack and Lily ("J&L") and Robert Thomas Buell ("Buell") (J&L and Buell are referenced collectively hereinafter as "Defendants") from manufacturing, advertising,

offering for sale, selling, distributing, marketing, transporting, delivering, or in any way attempting to sell or resell certain shoes for infants that are identified in pediped's amended complaint filed on May 23, 2008, and that embody and are packaged in trade dress that is confusingly similar to the distinctive trade dress of pediped's own shoes for infants.

Pediped requests that the Court order a hearing and briefing schedule on pediped's entitlement to a preliminary injunction, allowing sufficient time (1) for Defendants to be served with these papers and the Court's Order pursuant to the convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at the Hague, November 15, 1965, and (2) for Plaintiff to conduct expedited discovery pursuant to the accompanying request therefor.

To effect formal service pursuant to the Hague convention, pediped mails the documents to be served and a request for service to the Central Authority Administrator for Service of Foreign Documents in British Columbia, Canada. Within approximately two weeks, the documents will be served upon Defendants. In roughly another two weeks, pediped will receive the completed Certificates showing the details of service. So that Defendants have earlier notice of the hearing, pediped proposes, immediately upon the Court's issuance of an Order, to send a courtesy copy of the Order and these papers by email and overnight courier to Defendants' Canadian counsel who has been in communication with pediped's counsel regarding the case.

This is Plaintiff's first application for the requested relief. Plaintiff has repeatedly advised Defendants' Canadian counsel that Plaintiff would seek such relief, most recently in a telephone discussion on June 3, 2008, during which Plaintiff notified Defendants' Canadian counsel that the present Application for an Order to Show Cause re Preliminary Injunction and Ex Parte Request for Expedited Discovery would be filed on June 4, 2008.

This application is supported by the Declarations attached hereto; the Memorandum of Law in Support of Plaintiff's Application for Order to Show Cause re Preliminary Injunction filed contemporaneously herewith; and the First Amended Complaint for Trade Dress Infringement, Dilution, and Unfair Competition and exhibits thereto filed May 23, 2008.

BAKER & HOSTETLER LLP

Dated: New York, New York
June 3, 2008

By: 
Thomas A. Canova (TC 7270)
45 Rockefeller Plaza
New York, NY 10111
(212) 589-4200 – phone
(212) 589-4201 – fax
Attorneys for the Plaintiff
pediped Infant Footwear LLC